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Paper No. 10

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MAIL

FEB 26 2004

In re Application of
Nolan et al.
Application No. 10/090,389
Filed: March 1, 2002
For: NAVIGATION SYSTEM UTILIZING
PORTABLE AND ADJUSTABLE HEADS UP
DISPLAY

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

This is in response to the Request To Reverse Holding Of Abandonment which is treated as a Petition for Withdrawal of Abandonment pursuant to 37 C.F.R. § 1.181(a), filed November 10, 2003. No fee is required.

The subject application was filed without an executed oath or declaration, and afforded a filing date of March 1, 2002. On April 1, 2002, the U.S. Patent and Trademark Office mailed a Notice To File Missing Parts (paper No. 3) requesting a signed oath or declaration and payment of a late filing fee of \$130.00. A response to the Notice to file missing parts was not received and/or matched with the application. Therefore, a Notice of Abandonment was mailed on November 3, 2003.

Petitioner states that a thorough response to the Notice of Missing Parts was in fact timely filed, and received in the Office, on April 22, 2002. To support this assertion, petitioner has submitted a date-stamped copy of a return postcard which acknowledges receipt by the Patent and Trademark Office of an executed Declaration and a Response transmittal letter (among other items) which authorized payment of the required fee. Petitioner has also submitted a copies of the aforementioned Declaration and transmittal letter.

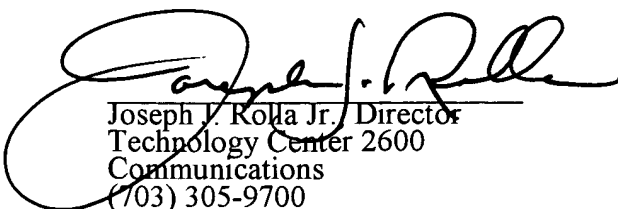
M.P.E.P. § 503 states that "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

The response is considered timely filed since the post card receipt bears a date of April 22, 2002, evidencing submission within the two months set within the Notice to File Missing Parts. Accordingly, the copy of the Declaration is accepted. Office records indicate that the fee for late submission of a signed oath or declaration, was received and recorded, as indicated on the transmittal letter.

In view of the above stated reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED**.

The application will be forwarded to TC2600's Central Files to await action in appropriate turn.


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